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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1363**

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**Introduced by Assembly Member Jones**  
**(Principal coauthors: Assembly Members Berg, Canciamilla,**  
**Frommer, Karnette, Liu, Montanez, and Nunez)**  
(Principal coauthors: Senators Chesbro and Figueroa)  
**(Coauthors: Assembly Members Arambula, Chu, Cohn, Garcia,**  
**Goldberg, Klehs, Koretz, Laird, Leno, Levine, Lieber, Lieu,**  
**Parra, Pavley, Saldana, and Spitzer)**  
(Coauthors: Senators Kuehl, Ortiz, and Torlakson)

February 22, 2005

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~~An act to add Chapter 6.1 (commencing with Section 6600) to~~  
~~Division 3 of the Business and Professions Code to amend Sections~~

1610, 1822, 1826, 1829, 1830, 1850, 1851, 2215, 2250, 2253, 2320, 2321, 2401, 2610, 2620, 2620.2, 2623, 2640, 2640.1, 2641, 2653, 2701, and 2920 of, to add Sections 1456, 1457, ~~2113, 2250.1, 2250.2, 1850.5, 2113, 2250.2, 2250.4, 2250.6, 2250.8, 2410, and 2923~~ to, and to add and repeal Section 1458 of, the Probate Code, ~~and to amend Sections 15610.17 and 15633.5 of the Welfare and Institutions Code,~~ relating to conservatorship and guardianship.

LEGISLATIVE COUNSEL'S DIGEST

AB 1363, as amended, Jones. Omnibus Conservatorship and Guardianship Reform Act of 2006.

(1) Existing law governs the establishment of conservatorships and guardianships.

The bill would require the Judicial Council, among other things, to adopt specified rules of court relating to conservatorships and guardianships and to develop educational programs for nonlicensed conservators and guardians. The bill would also require the Judicial Council to establish qualifications and educational requirements for any court-employed staff attorney, examiner, and investigator or court-appointed attorney, to require educational classes for these attorneys, and probate judges, to report to the Legislature regarding a study measuring court effectiveness in conservatorship cases, and to develop forms to provide notice regarding free assistance provided by the court to conservators and how to file an objection to an inventory and appraisal of the estate. The bill would require each superior court to provide assistance to self-represented nonlicensed conservators and guardians, as specified. The bill would require public guardians to comply with specified continuing education requirements by January 1, 2008. *The bill would revise the notice requirements regarding a petition for the appointment of a temporary guardian or temporary conservator, except as specified.* The bill would also require the Judicial Council to adopt a rule of court to implement a specified provision, effective January 1, 2008, requiring guardians and conservators to provide a bond.

(2) Existing law requires conservators and guardians to present a biennial accounting of the assets of the conservatee or ward and requires a biennial review of each conservatorship.

The bill would require a review of conservatorships at a noticed hearing, and impose new requirements governing the accounting. The

bill also would prohibit a court from reducing the amount of a bond in conservatorship proceedings without good cause, impose new duties on court investigators and prohibit the compensation of a guardian or conservator from the estate for costs or fees incurred in unsuccessfully opposing a petition, among other changes. The bill would also specify the circumstances under which a guardian or conservator that is a trust company is required to obtain the authorization of a court prior to exercising its powers.

(3) Existing law authorizes the public guardian to apply for appointment as guardian or conservator of the person, estate, or both, of any person domiciled in the county requiring a guardian or conservator if there is no one else who is qualified and willing to act and whose appointment would be in the best interest of the person. The public guardian is required to apply for appointment if ordered by the court.

This bill additionally would require the public guardian to apply for appointment as guardian or conservator if there is an imminent threat to the person's health or safety or the person's estate. The bill would require the court to order the public guardian to apply for appointment on behalf of any person domiciled in the county who appears to require a guardian or conservator, if it appears that there is no one else who is qualified and willing to act, and if that appointment as guardian or conservator appears to be in the best interests of the person, as specified.

~~(4) The bill would establish in the Department of Consumer Affairs the Office of Conservatorship Ombudsman to collect and analyze data relative to complaints about conservatorships and to investigate complaints and concerns communicated by or on behalf of conservatees. These provisions would become operative on January 1, 2008.~~

~~(5) Existing law provides that various persons, including elder or dependent adult care custodians, as defined, are mandated reporters who are required to report the abuse of elder or dependent adults. Those reports are confidential, as specified. Failing to make, or impeding or inhibiting, a report of abuse, or violating confidentiality, as specified, is a misdemeanor, punishable by a fine, or imprisonment, or both. In addition, a person, including a care custodian, may present to the State Board of Control a claim for attorney's fees incurred in any action against that person on the basis of making those reports,~~

~~whether the report was required or authorized, if the court dismisses the action or the person prevails in the action.~~

~~This bill would provide that the Conservatorship Ombudsman is a care custodian for purposes of those provisions. Because the bill would expand the class of persons who come within the scope of existing crimes, the bill would create a state-mandated local program.~~

~~(6)~~

~~Because the bill would impose new duties and educational requirements on the public guardian, a county officer, the bill would impose a state-mandated local program.~~

~~(4)The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~(5) The bill would become operative only if SB 1116, SB 1550, and SB 1716 are enacted and become effective on or before January 1, 2007.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.~~

*The people of the State of California do enact as follows:*

1 SECTION 1. This act, together with Senate Bill 1116 (Scott),  
2 Senate Bill 1550 (Figueroa), and Senate Bill 1716 (Bowen), shall  
3 be known and may be cited as the Omnibus Conservatorship and  
4 Guardianship Reform Act of 2006.

5 SEC. 2. The Legislature finds and declares the following:

6 (a) The rate of increase in the number of Californians who are  
7 65 years of age or older is surpassing that in other states. The  
8 number of people who are 65 years of age will grow from 3.7  
9 million people in the year 2000, to 6.3 million in the year 2020.  
10 The fastest growing segment of California's population, expected  
11 to increase by 148 percent between the years 1990 and 2020, is  
12 people who are 85 years of age or older. As many as 10 percent  
13 of the population over 65 years of age and 25 percent of the

1 population over 85 years of age will suffer from Alzheimer's  
2 disease.

3 (b) As the population of California continues to grow and age,  
4 an increasing number of persons in the state are unable to provide  
5 properly for their personal needs, to manage their financial  
6 resources, or to resist fraud or undue influence.

7 (c) One result of these trends is the growing number of  
8 persons acting as conservators on behalf of other persons or their  
9 estates. It is estimated that about 500 professional conservators  
10 oversee \$1.5 billion in assets. Over 5,000 conservatorship  
11 petitions are filed each year in California.

12 (d) Probate courts oversee the work of conservators, but, in  
13 part due to a lack of resources and conflicting priorities, courts  
14 often do not provide sufficient oversight in conservatorship cases  
15 to ensure that the best interests of conservatees are protected.

16 (e) Professional fiduciaries are not adequately regulated at  
17 present. This lack of regulation can result in the neglect, or the  
18 physical or financial abuse, of the clients professional fiduciaries  
19 are supposed to serve. ~~For that reason, it is necessary to create a~~  
20 ~~program to license certain professional fiduciaries in order to~~  
21 ~~protect the public health, safety, and welfare.~~

22 (f) Public guardians do not have adequate resources to  
23 represent the best interests of qualifying Californians and,  
24 therefore, many in need of the assistance of a conservator go  
25 without.

26 (g) As a result, the conservatorship system in California is  
27 fundamentally flawed and in need of reform.

28 ~~SEC. 2.5. Chapter 6.1 (commencing with Section 6600) is~~  
29 ~~added to Division 3 of the Business and Professions Code, to~~  
30 ~~read:~~

31  
32 ~~CHAPTER 6.1. CONSERVATORSHIP OMBUDSMAN~~  
33

34 ~~6600. There is within the Department of Consumer Affairs~~  
35 ~~the Office of the Conservatorship Ombudsman.~~

36 ~~6601. (a) The office shall be under the direction of a chief~~  
37 ~~executive officer who shall be known as the Conservatorship~~  
38 ~~Ombudsman. The Conservatorship Ombudsman shall be~~  
39 ~~appointed by the director and shall report directly to the director.~~  
40 ~~He or she shall devote his or her entire time to the duties of his or~~

1 her position, and shall receive the salary otherwise provided by  
2 law.

3 (b) Any vacancy occurring in the position of Conservatorship  
4 Ombudsman shall be filled in the same manner as the original  
5 appointment. Whenever the Conservatorship Ombudsman dies,  
6 resigns, becomes ineligible to serve for any reason, or is removed  
7 from office, the director shall appoint an acting Conservatorship  
8 Ombudsman within 30 days, who shall serve until the  
9 appointment and qualification of the Conservatorship  
10 Ombudsman's successor, but in no event longer than four months  
11 from the occurrence of the vacancy. The acting Conservatorship  
12 Ombudsman shall exercise, during this period, all of the powers  
13 and duties of the Conservatorship Ombudsman pursuant to this  
14 chapter.

15 6602. (a) The Conservatorship Ombudsman shall possess at  
16 least a bachelor's degree, and have a minimum of five years'  
17 professional experience that shall include at least fiduciary asset  
18 management and shall be in at least three of the following four  
19 areas:

20 (1) Gerontology, long-term care, or other relevant social  
21 services or health services programs.

22 (2) The legal system and the legislative process.

23 (3) Dispute or problem resolution techniques, including  
24 investigation, mediation, and negotiation.

25 (4) Organizational management and program administration.

26 (b) The professional experience described in subdivision (a)  
27 requires any reasonable combination of the fields described in  
28 that subdivision for a total of five years, and does not require five  
29 years' experience in each area. At the discretion of the director, a  
30 master's or doctorate degree relevant to a field described in  
31 subdivision (a) may be substituted for one or two years,  
32 respectively, of professional experience. However, the  
33 applicant's professional experience and field of study leading to  
34 the master's or doctorate degree shall, nevertheless, include all of  
35 the fields described in subdivision (a).

36 6603. The Conservatorship Ombudsman may employ  
37 technical experts and other employees that, in his or her  
38 judgment, are necessary for the conduct of the business of the  
39 office.

1     ~~6604. The office may solicit and receive funds, gifts, and~~  
2 ~~contributions to support the operations and programs of the~~  
3 ~~office. The office may form a foundation eligible to receive~~  
4 ~~tax-deductible contributions to support the operations and~~  
5 ~~programs of the office. The office shall not solicit or receive any~~  
6 ~~funds, gifts, or contributions if the solicitation or receipt would~~  
7 ~~jeopardize the independence and objectivity of the office.~~

8     ~~6605. (a) No representative of the office shall be held liable~~  
9 ~~for good faith performance of responsibilities under this chapter.~~

10    ~~(b) No discriminatory, disciplinary, or retaliatory action shall~~  
11 ~~be taken against any person for any communication made, or~~  
12 ~~information given or disclosed, to aid the office in carrying out~~  
13 ~~its duties and responsibilities, unless the same was done~~  
14 ~~maliciously or without good faith.~~

15    ~~(c) All communications by a representative of the office, if~~  
16 ~~reasonably related to the requirements of that individual's~~  
17 ~~responsibilities under this chapter and done in good faith, shall be~~  
18 ~~privileged, and that privilege shall serve as a defense to any~~  
19 ~~action in libel or slander.~~

20    ~~(d) Any representative of the office shall be exempt from~~  
21 ~~being required to testify in court as to any confidential matters,~~  
22 ~~except as the court may deem necessary to enforce the provisions~~  
23 ~~of this chapter.~~

24    ~~6606. The department shall be responsible for establishing a~~  
25 ~~statewide reporting system to collect and analyze data relative to~~  
26 ~~complaints regarding conservatorships for the purpose of~~  
27 ~~identifying significant problems. The department shall submit the~~  
28 ~~data annually to the California Board of Professional Fiduciaries,~~  
29 ~~the Judicial Council, and the Legislature.~~

30    ~~6607. (a) The office shall provide to the public information~~  
31 ~~and limited assistance regarding conservators.~~

32    ~~(b) The office shall take complaints and concerns~~  
33 ~~communicated by, or on behalf of, conservatees, and review the~~  
34 ~~complaints to determine if they require further investigation.~~  
35 ~~Complaint review shall be done in an objective manner to~~  
36 ~~ascertain the pertinent facts. If the office determines that~~  
37 ~~investigation by an appropriate agency or action by a court is~~  
38 ~~required, the office shall refer the complaint to the local superior~~  
39 ~~court, the Judicial Council, the Commission on Judicial~~  
40 ~~Performance, the California Board of Professional Fiduciaries,~~

1 the Attorney General, the local district attorney, or the local  
2 office of Adult Protective Services, as appropriate, which shall  
3 take all appropriate steps to resolve the complaint. The court or  
4 agency shall send a copy of the action it took to the office in a  
5 timely manner.

6 (e) Upon receipt of the report of the action taken by the agency  
7 or court, the office shall report to the complainant. If the office  
8 review determines that no action is required or if a referral does  
9 not result in a resolution of the complaint, the complainant shall  
10 be notified in writing of the decision and the reasons for the  
11 decision.

12 6608. The Conservatorship Ombudsman shall have access to  
13 any record of a state or local governmental agency that is  
14 necessary to carry out his or her responsibilities under this  
15 chapter, including records rendered confidential.

16 6609. All records and files of the office relating to any  
17 complaint made pursuant to this chapter and the identities of  
18 complainants, witnesses, patients, or residents shall remain  
19 confidential, unless disclosure is required by court order, or the  
20 release of the information is to a law enforcement agency, public  
21 protective services agency, or a licensing or certification agency  
22 in a manner consistent with federal laws and regulations.

23 6610. This chapter shall become operative on January 1,  
24 2008.

25 SEC. 3. Section 1456 is added to the Probate Code, to read:

26 1456. (a) ~~On~~ *In addition to any other requirements that are*  
27 *part of the judicial branch education program, on or before*  
28 *January 1, 2008, the Judicial Council shall adopt a rule of court*  
29 *that shall do all of the following:*

30 (1) Specifies the qualifications of a court-employed staff  
31 attorney, examiner, and investigator, and any attorney appointed  
32 pursuant to Sections 1470 and 1471.

33 (2) Specifies the number of hours of education in classes  
34 related to conservatorships or guardianships that a judge who is  
35 regularly assigned to hear probate matters, ~~court-employed staff~~  
36 ~~attorney, examiner, and investigator, and any attorney appointed~~  
37 ~~pursuant to Sections 1470 and 1471 shall complete each year.~~  
38 *shall complete, upon assuming the probate assignment, and then*  
39 *over a three-year period on an ongoing basis.*



1 (3) *Specifies the number of hours of education in classes*  
2 *related to conservatorships or guardianships that a*  
3 *court-employed staff attorney, examiner, and investigator, and*  
4 *any attorney appointed pursuant to Sections 1470 and 1471 shall*  
5 *complete each year.*

6 (4) Specifies the particular subject matter that shall be  
7 included in the education required each year.

8 (5) *Specifies reporting requirements to ensure compliance*  
9 *with this section.*

10 (b) In formulating the rule required by this section, the Judicial  
11 Council shall consult with interested parties, including, but not  
12 limited to, the California Judges Association, the California  
13 Association of Superior Court Investigators, the California Public  
14 Defenders Association, the County Counsels' Association of  
15 California, the State Bar of California, the National Guardianship  
16 Association, and the Association of Professional Geriatric Care  
17 Managers.

18 SEC. 4. Section 1457 is added to the Probate Code, to read:

19 1457. In order to assist relatives and friends who may seek  
20 appointment as a nonprofessional conservator or guardian:

21 (a) The Judicial Council shall develop a short educational  
22 program of no more than three hours that is user-friendly and  
23 shall make that program available free of charge to each  
24 proposed conservator and guardian and each court-appointed  
25 conservator and guardian who is not required to be licensed as a  
26 professional conservator or guardian pursuant to Chapter 6  
27 (commencing with Section 6500) of Division 3 of the Business  
28 and Professions Code. The program may be available by video  
29 presentation or Internet access.

30 (b) Each superior court shall provide assistance to  
31 self-represented conservators and guardians who are not required  
32 to be licensed as professional conservators or guardians pursuant  
33 to Chapter 6 (commencing with Section 6500) of Division 3 of  
34 the Business and Professions Code. That assistance shall include  
35 providing educational materials to self-represented conservators  
36 and guardians, distributing necessary court forms, providing  
37 assistance in completing forms, and providing referrals to  
38 community agencies and resources that provide services for  
39 conservators and guardians. These services shall be offered free  
40 of charge.

SEC. 5. Section 1458 is added to the Probate Code, to read:

1458. (a) On or before January 1, 2008, the Judicial Council shall report to the Legislature the findings of a study measuring court effectiveness in conservatorship cases. The report shall include all of the following with respect to the courts chosen for evaluation:

(1) A summary of caseload statistics, including both temporary and permanent conservatorships, bonds, court investigations, accountings, and use of professional conservators.

(2) An analysis of compliance with statutory timeframes.

(3) A description of any operational differences between courts that affect the processing of conservatorship cases, including timeframes.

(b) The Judicial Council shall select three courts for the evaluation mandated by this section.

(c) The report shall include recommendations for statewide performance measures to be collected, best practices that serve to protect the rights of conservatees, and staffing needs to meet case processing measures.

(d) This section shall remain in-effect *effect* only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, ~~that~~ *that is* enacted before January 1, 2006, deletes or extends that date.

SEC. 6. Section 1610 of the Probate Code is amended to read:

1610. (a) The Legislature finds and declares that it is in the best interests of children to be raised in a permanent, safe, stable, and loving environment.

(b) Unwarranted petitions, applications, or motions other than discovery motions after the guardianship has been established create an environment that can be harmful to children and are inconsistent with the goals of permanency, safety, and stability.

SEC. 7. Section 1822 of the Probate Code is amended to read:

1822. (a) At least 15 days before the hearing on the petition for appointment of a conservator, notice of the time and place of the hearing shall be given as provided in this section. The notice shall include information about free assistance provided by the court to conservators pursuant to Section 1457 ~~and about the complaint process available through the Conservatorship Ombudsman established pursuant to Chapter 6.1 (commencing with Section 6600) of Division 3 of the Business and Professions~~

1 Code. The notice shall be accompanied by a copy of the petition.  
2 The court may not shorten the time for giving the notice of  
3 hearing under this section.

4 (b) Notice shall be mailed to the following persons:

5 (1) The spouse, if any, or registered domestic partner, if any,  
6 of the proposed conservatee at the address stated in the petition.

7 (2) The relatives named in the petition at their addresses stated  
8 in the petition.

9 (c) If notice is required by Section 1461 to be given to the  
10 Director of Mental Health or the Director of Developmental  
11 Services, notice shall be mailed as so required.

12 (d) If the petition states that the proposed conservatee is  
13 receiving or is entitled to receive benefits from the Veterans  
14 Administration, notice shall be mailed to the Office of the  
15 Veterans Administration referred to in Section 1461.5.

16 (e) If the proposed conservatee is a person with developmental  
17 disabilities, at least 30 days before the day of the hearing on the  
18 petition, the petitioner shall mail a notice of the hearing and a  
19 copy of the petition to the regional center identified in Section  
20 1827.5.

21 (f) The Judicial Council shall, on or before January 1, 2008,  
22 develop a form to effectuate the notice required in subdivision  
23 (a).

24 SEC. 8. Section 1826 of the Probate Code is amended to read:

25 1826. Regardless of whether the proposed conservatee  
26 attends the hearing, the court investigator shall do all of the  
27 following:

28 (a) Interview the proposed conservatee personally. The court  
29 investigator also shall do all of the following:

30 (1) Interview the petitioner and the proposed conservator, if  
31 different from the petitioner.

32 (2) Interview the proposed conservatee's spouse or registered  
33 domestic partner and relatives within the first degree.

34 (3) To the greatest extent possible, interview the proposed  
35 conservatee's relatives within the second degree, as set forth in  
36 subdivision (b) of Section 1821, neighbors, and, if known, close  
37 friends, before the hearing.

38 (b) Inform the proposed conservatee of the contents of the  
39 citation, of the nature, purpose, and effect of the proceeding, and  
40 of the right of the proposed conservatee to oppose the

1 proceeding, to attend the hearing, to have the matter of the  
2 establishment of the conservatorship tried by jury, to be  
3 represented by legal counsel if the proposed conservatee so  
4 chooses, and to have legal counsel appointed by the court if  
5 unable to retain legal counsel.

6 (c) Determine whether it appears that the proposed  
7 conservatee is unable to attend the hearing and, if able to attend,  
8 whether the proposed conservatee is willing to attend the hearing.

9 (d) Review the allegations of the petition as to why the  
10 appointment of the conservator is required and, in making his or  
11 her determination, do the following:

12 (1) Refer to the supplemental information form submitted by  
13 the petitioner and consider the facts set forth in the form that  
14 address each of the categories specified in paragraphs (1) to (5),  
15 inclusive, of subdivision (a) of Section 1821.

16 (2) Consider, to the extent practicable, whether he or she  
17 believes the proposed conservatee suffers from any of the mental  
18 function deficits listed in subdivision (a) of Section 811 that  
19 significantly impairs the proposed conservatee's ability to  
20 understand and appreciate the consequences of his or her actions  
21 in connection with any of the functions described in subdivision  
22 (a) or (b) of Section 1801 and identify the observations that  
23 support that belief.

24 (e) Determine whether the proposed conservatee wishes to  
25 contest the establishment of the conservatorship.

26 (f) Determine whether the proposed conservatee objects to the  
27 proposed conservator or prefers another person to act as  
28 conservator.

29 (g) Determine whether the proposed conservatee wishes to be  
30 represented by legal counsel and, if so, whether the proposed  
31 conservatee has retained legal counsel and, if not, the name of an  
32 attorney the proposed conservatee wishes to retain.

33 (h) Determine whether the proposed conservatee is capable of  
34 completing an affidavit of voter registration.

35 (i) If the proposed conservatee has not retained legal counsel,  
36 determine whether the proposed conservatee desires the court to  
37 appoint legal counsel.

38 (j) Determine whether the appointment of legal counsel would  
39 be helpful to the resolution of the matter or is necessary to  
40 protect the interests of the proposed conservatee in any case

1 where the proposed conservatee does not plan to retain legal  
2 counsel and has not requested the appointment of legal counsel  
3 by the court.

4 (k) Report to the court in writing, at least five days before the  
5 hearing, concerning all of the foregoing, including the proposed  
6 conservatee's express communications concerning both of the  
7 following:

8 (1) Representation by legal counsel.

9 (2) Whether the proposed conservatee is not willing to attend  
10 the hearing, does not wish to contest the establishment of the  
11 conservatorship, and does not object to the proposed conservator  
12 or prefer that another person act as conservator.

13 (l) Mail, at least five days before the hearing, a copy of the  
14 report referred to in subdivision (k) to all of the following:

15 (1) The attorney, if any, for the petitioner.

16 (2) The attorney, if any, for the proposed conservatee.

17 (3) The proposed conservatee.

18 (4) The spouse, registered domestic partner, and relatives  
19 within the first degree of the proposed conservatee who are  
20 required to be named in the petition for appointment of the  
21 conservator, unless the court determines that the mailing will  
22 result in harm to the conservatee.

23 (5) Any other persons as the court orders.

24 (m) The court investigator has discretion to release the report  
25 required by this section to the public conservator, interested  
26 public agencies, and the long-term care ombudsman.

27 (n) The report required by this section is confidential and shall  
28 be made available only to parties, persons described in  
29 subdivision (l), persons given notice of the petition who have  
30 requested this report or who have appeared in the proceedings,  
31 their attorneys, and the court. The court has discretion at any  
32 other time to release the report, if it would serve the interests of  
33 the conservatee. The clerk of the court shall provide for the  
34 limitation of the report exclusively to persons entitled to its  
35 receipt.

36 (o) This section does not apply to a proposed conservatee who  
37 has personally executed the petition for conservatorship, or one  
38 who has nominated his or her own conservator, if he or she  
39 attends the hearing.

1 (p) If the court investigator has performed an investigation  
2 within the preceding six months and furnished a report thereon to  
3 the court, the court may order, upon good cause shown, that  
4 another investigation is not necessary or that a more limited  
5 investigation may be performed.

6 (q) Any investigation by the court investigator related to a  
7 temporary conservatorship also may be a part of the investigation  
8 for the general petition for conservatorship, but the court  
9 investigator shall make a second visit to the proposed  
10 conservatee and the report required by this section shall include  
11 the effect of the temporary conservatorship on the proposed  
12 conservatee.

13 SEC. 9. Section 1829 of the Probate Code is amended to read:

14 1829. (a) Any of the following persons may appear at the  
15 hearing to support or oppose the petition:

16 (1) The proposed conservatee.

17 (2) The spouse or registered domestic partner of the proposed  
18 conservatee.

19 (3) A relative of the proposed conservatee.

20 (4) Any interested person or friend of the proposed  
21 conservatee.

22 (b) The court shall inform any of the persons set forth in  
23 subdivision (a) who appear at the hearing about the free  
24 assistance provided to nonprofessional conservators pursuant to  
25 Section 1457.

26 SEC. 10. Section 1830 of the Probate Code is amended to  
27 read:

28 1830. (a) The order appointing the conservator shall contain,  
29 among other things, the names, addresses, and telephone  
30 numbers of:

31 (1) The conservator.

32 (2) The conservatee's attorney, if any.

33 (3) The court investigator, if any.

34 (b) In the case of a limited conservator for a developmentally  
35 disabled adult, any order the court may make shall include the  
36 findings of the court specified in Section 1828.5. The order shall  
37 specify the powers granted to and duties imposed upon the  
38 limited conservator, which powers and duties may not exceed the  
39 powers and duties applicable to a conservator under this code.  
40 The order shall also specify the following:

1 (1) The properties of the limited conservatee to which the  
2 limited conservator is entitled to possession and management,  
3 giving a description of the properties that will be sufficient to  
4 identify them.

5 (2) The debts, rentals, wages, or other claims due to the  
6 limited conservatee which the limited conservator is entitled to  
7 collect, or file suit with respect to, if necessary, and thereafter to  
8 possess and manage.

9 (3) The contractual or other obligations which the limited  
10 conservator may incur on behalf of the limited conservatee.

11 (4) The claims against the limited conservatee which the  
12 limited conservator may pay, compromise, or defend, if  
13 necessary.

14 (5) Any other powers, limitations, or duties with respect to the  
15 care of the limited conservatee or the management of the  
16 property specified in this subdivision by the limited conservator  
17 which the court shall specifically and expressly grant.

18 (c) An information notice of the rights of conservatees shall be  
19 attached to the order. The conservator shall mail the order and  
20 the attached information notice to the conservatee and the  
21 conservatee's relatives, as set forth in subdivision (b) of Section  
22 1821. By January 1, 2008, the Judicial Council shall develop the  
23 notice required by this subdivision.

24 SEC. 11. Section 1850 of the Probate Code is amended to  
25 read:

26 1850. (a) Except as provided in subdivision (b), each  
27 conservatorship initiated pursuant to this part shall be  
28 ~~reviewed~~*by reviewed* by the court as follows:

29 (1) At the expiration of six months after the initial  
30 appointment of the conservator, the court investigator shall visit  
31 the conservatee, conduct an investigation in accordance with the  
32 provisions of subdivision (a) of Section 1851, and report to the  
33 court regarding the appropriateness of the conservatorship and  
34 whether the conservator is acting in the best interests of the  
35 conservatee regarding the conservatee's placement, quality of  
36 care, including physical and mental treatment, and finances. The  
37 court may, in response to the investigator's report, take  
38 appropriate action including, but not limited to:

39 (A) Ordering a review of the conservatorship pursuant to  
40 subdivision (b).

1 (B) Ordering the conservator to submit an accounting pursuant  
2 to subdivision (a) of Section 2620.

3 (2) One year after the appointment of the conservator and  
4 annually thereafter. However, at the review that occurs one year  
5 after the appointment of the conservator, and every subsequent  
6 review conducted pursuant to this paragraph, the court may set  
7 the next review in two years if the court determines that the  
8 conservator is acting in the best interests of the conservatee. In  
9 these cases, the court shall require the investigator to conduct an  
10 investigation pursuant to subdivision (a) of Section 1851 one  
11 year before the next review and file a status report in the  
12 conservatee's court file regarding whether the conservatorship  
13 still appears to be warranted and whether the conservator is  
14 acting in the best interests of the conservatee. If the investigator  
15 determines pursuant to this investigation that the conservatorship  
16 still appears to be warranted and that the conservator is acting in  
17 the best interests of the conservatee regarding the conservatee's  
18 placement, quality of care, including physical and mental  
19 treatment, and finances, no hearing or court action in response to  
20 the investigator's report is required.

21 (b) The court may, on its own motion or upon request by any  
22 interested person, take appropriate action including, but not  
23 limited to, ordering a review of the conservatorship, including at  
24 a noticed hearing, and ordering the conservator to present an  
25 accounting of the assets of the estate pursuant to Section 2620.

26 (c) Notice of a hearing pursuant to subdivision (b) shall be  
27 provided to all persons listed in subdivision (b) of Section 1822.

28 (d) This chapter does not apply to either of the following:

29 (1) A conservatorship for an absentee as defined in Section  
30 1403.

31 (2) A conservatorship of the estate for a nonresident of this  
32 state where the conservatee is not present in this state.

33 SEC. 12. Section 1851 of the Probate Code is amended to  
34 read:

35 1851. (a) When court review is required, the court  
36 investigator shall, without prior notice to the conservator except  
37 as ordered by the court for necessity or to prevent harm to the  
38 conservatee, visit the conservatee. The court investigator shall  
39 inform the conservatee personally that the conservatee is under a  
40 conservatorship and shall give the name of the conservator to the



1 conservatee. The court investigator shall determine whether the  
2 conservatee wishes to petition the court for termination of the  
3 conservatorship, whether the conservatee is still in need of the  
4 conservatorship, whether the present conservator is acting in the  
5 best interests of the conservatee, and whether the conservatee is  
6 capable of completing an affidavit of voter registration. In  
7 determining whether the conservator is acting in the best interests  
8 of the conservatee, the court investigator's evaluation shall  
9 include an examination of the conservatee's placement, quality of  
10 care, including physical and mental treatment, and the  
11 conservatee's finances. To the greatest extent possible, the court  
12 investigator shall interview individuals set forth in subdivision  
13 (a) of Section 1826, in order to determine if the conservator is  
14 acting in the best interests of the conservatee. If the court has  
15 made an order under Chapter 4 (commencing with Section 1870),  
16 the court investigator shall determine whether the present  
17 condition of the conservatee is such that the terms of the order  
18 should be modified or the order revoked. ~~The~~ *Upon request of*  
19 *the court investigator,* the conservator shall make available to the  
20 court investigator during the investigation for inspection and  
21 copying all books and records, including receipts and any  
22 expenditures, of the conservatorship.

23 (b) The findings of the court investigator, including the facts  
24 upon which the findings are based, shall be certified in writing to  
25 the court not less than 15 days prior to the date of review. A copy  
26 of the report shall be mailed to the conservator and to the  
27 attorneys of record for the conservator and conservatee at the  
28 same time it is certified to the court. A copy of the report also  
29 shall be mailed to the conservatee's spouse or registered  
30 domestic partner, the conservatee's relatives in the first degree,  
31 and, if there are no such relatives, to the next closest relative,  
32 unless the court determines that the mailing will result in harm to  
33 the conservatee.

34 (c) In the case of a limited conservatee, the court investigator  
35 shall make a recommendation regarding the continuation or  
36 termination of the limited conservatorship.

37 (d) The court investigator may personally visit the conservator  
38 and other persons as may be necessary to determine whether the  
39 present conservator is acting in the best interests of the  
40 conservatee.

(e) The report required by this section shall be confidential and shall be made available only to parties, persons described in subdivision (b), persons given notice of the petition who have requested the report or who have appeared in the proceeding, their attorneys, and the court. The court shall have discretion at any other time to release the report if it would serve the interests of the conservatee. The clerk of the court shall make provision for limiting disclosure of the report exclusively to persons entitled thereto under this section.

SEC. 12.5. *Section 1850.5 is added to the Probate Code, to read:*

1850.5. (a) *Notwithstanding Section 1850, each limited conservatorship for a developmentally disabled adult, as defined in subdivision (d) of Section 1801, shall be reviewed by the court one year after the appointment of the conservator and biennially thereafter.*

(b) *The court may, on its own motion or upon request by any interested person, take appropriate action, including, but not limited to, ordering a review of the limited conservatorship, including at a noticed hearing, at any time.*

SEC. 13. Section 2113 is added to the Probate Code, to read:

2113. A conservator shall accommodate the desires of the conservatee, except to the extent that doing so would violate the conservator's fiduciary duties to the conservatee or impose an unreasonable expense on the conservatorship estate.

SEC. 14. Section 2215 of the Probate Code is amended to read:

2215. (a) Any of the following persons may appear at the hearing to support or oppose the petition and may file written objections to the petition:

- (1) Any person required to be listed in the petition.
- (2) Any creditor of the ward or conservatee or of the estate.
- (3) Any other interested person.

(b) If the court determines that the transfer requested in the petition will be for the best interests of the ward or conservatee, it shall make an order transferring the proceeding to the other county. It shall be presumed to be in the best interests of the conservatee to transfer the proceedings if the ward or conservatee has moved his or her residence to another county within the state

1 in which any person set forth in subdivision (b) of Section 1821  
2 also resides.

3 SEC. 15. Section 2250 of the Probate Code is amended to  
4 read:

5 2250. (a) On or after the filing of a petition for appointment  
6 of a guardian or conservator, any person entitled to petition for  
7 appointment of the guardian or conservator may file a petition for  
8 appointment of:

9 (1) A temporary guardian of the person or estate or both.

10 (2) A temporary conservator of the person or estate or both.

11 (b) The petition shall state facts which establish good cause for  
12 appointment of the temporary guardian or temporary conservator.  
13 The court, upon that petition or other showing as it may require,  
14 may appoint a temporary guardian of the person or estate or both,  
15 or a temporary conservator of the person or estate or both, to  
16 serve pending the final determination of the court upon the  
17 petition for the appointment of the guardian or conservator.

18 (c) Unless the court for good cause otherwise orders, at least  
19 five days before the hearing on the petition, notice of the hearing  
20 shall be given as follows:

21 (1) Notice of the hearing shall be personally delivered to the  
22 proposed ward if he or she is 12 years of age or older, to the  
23 parent or parents of the proposed ward, and to any person having  
24 a valid visitation order with the proposed ward that was effective  
25 at the time of the filing of the petition. Notice of the hearing shall  
26 not be delivered to the proposed ward if he or she is under 12  
27 years of age. In a proceeding for temporary guardianship of the  
28 person, evidence that a custodial parent has died or become  
29 incapacitated, and that the petitioner is the nominee of the  
30 custodial parent, may constitute good cause for the court to order  
31 that this notice not be delivered.

32 (2) Notice of the hearing shall be personally delivered to the  
33 proposed conservatee, and notice of the hearing shall be served  
34 on the persons required to be named in the petition for  
35 appointment of conservator.

36 (3) A copy of the petition for temporary appointment shall be  
37 served with the notice of hearing.

38 (d) If a temporary guardianship is granted ex parte and the  
39 hearing on the general guardianship petition is not to be held  
40 within 30 days of the granting of the temporary guardianship, the

1 court shall set a hearing within 30 days to reconsider the  
2 temporary guardianship. Notice of the hearing for  
3 reconsideration of the temporary guardianship shall be provided  
4 pursuant to Section 1511, except that the court may for good  
5 cause shorten the time for the notice of the hearing.

6 (e) Visitation orders with the proposed ward granted prior to  
7 the filing of a petition for temporary guardianship shall remain in  
8 effect, unless for good cause the court orders otherwise.

9 (f) If a temporary conservatorship is granted ex parte, and a  
10 petition to terminate the temporary conservatorship is filed more  
11 than 15 days before the first hearing on the general petition for  
12 appointment of conservator, the court shall set a hearing within  
13 15 days of the filing of the petition for termination of the  
14 temporary conservatorship to reconsider the temporary  
15 conservatorship. Unless the court otherwise orders, notice of the  
16 hearing on the petition to terminate the temporary  
17 conservatorship shall be given at least 10 days prior to the  
18 hearing. If a petition to terminate the temporary conservatorship  
19 is filed within 15 days before the first hearing on the general  
20 petition for appointment of conservator, the court shall set the  
21 hearing at the same time that the hearing on the general petition  
22 is set.

23 (g) The appointment of a guardian or conservator and the  
24 appointment of a temporary guardian or conservator may be  
25 requested in a single petition or by separate petitions. If the  
26 appointment of both a guardian or conservator and also a  
27 temporary guardian or conservator is requested in a single  
28 petition, the court may not appoint a guardian or conservator  
29 without the investigations and reviews otherwise required.

30 (h) If the court suspends powers of the guardian or conservator  
31 under Section 2334 or 2654 or under any other provision of this  
32 division, the court may appoint a temporary guardian or  
33 conservator to exercise those powers until the powers are  
34 restored to the guardian or conservator or a new guardian or  
35 conservator is appointed.

36 (i) If for any reason a vacancy occurs in the office of guardian  
37 or conservator, the court, on a petition filed under subdivision (a)  
38 or on its own motion, may appoint a temporary guardian or  
39 conservator to exercise the powers of the guardian or conservator  
40 until a new guardian or conservator is appointed.

1 (j) On or before January 1, 2008, the Judicial Council shall  
2 adopt a rule of court that establishes uniform standards for good  
3 cause exceptions to the notice required by subdivision (c),  
4 limiting those exceptions to only cases when waiver of the notice  
5 is essential to protect the proposed conservatee or ward, or the  
6 estate of the proposed conservatee or ward, from substantial  
7 harm.

8 *SEC. 15.5. Section 2250.2 is added to the Probate Code, to*  
9 *read:*

10 2250.2. (a) *On or after the filing of a petition for*  
11 *appointment of a conservator, any person entitled to petition for*  
12 *appointment of the conservator may file a petition for*  
13 *appointment of a temporary conservator of the person or estate*  
14 *or both.*

15 (b) *The petition shall state facts which establish good cause*  
16 *for appointment of the temporary conservator. The court, upon*  
17 *such petition or other showing as it may require, may appoint a*  
18 *temporary conservator of the person or estate or both, to serve*  
19 *pending the final determination of the court upon the petition for*  
20 *the appointment of the conservator.*

21 (c) *Unless the court for good cause otherwise orders, not less*  
22 *than five days before the appointment of the temporary*  
23 *conservator, notice of the proposed appointment shall be*  
24 *personally delivered to the proposed conservatee.*

25 (d) *One petition may request the appointment of a conservator*  
26 *and also the appointment of a temporary conservator or these*  
27 *appointments may be requested in separate petitions.*

28 (e) *If the court suspends powers of the conservator under*  
29 *Section 2334 or 2654 or under any other provision of this*  
30 *division, the court may appoint a temporary conservator to*  
31 *exercise those powers until the powers are restored to the*  
32 *conservator or a new conservator is appointed.*

33 (f) *If for any reason a vacancy occurs in the office of*  
34 *conservator, the court, on a petition filed under subdivision (a)*  
35 *or on its own motion, may appoint a temporary conservator to*  
36 *exercise the powers of the conservator until a new conservator is*  
37 *appointed.*

38 (g) *This section shall only apply to proceedings under Chapter*  
39 *3 (commencing with Section 5350) of Part 1 of Division 5 of the*  
40 *Welfare and Institutions Code.*

1 SEC. 16. Section ~~2250.1~~ 2250.4 is added to the Probate Code,  
2 to read:

3 ~~2250.1.~~

4 2250.4. The proposed temporary conservatee shall attend the  
5 hearing except in the following cases:

6 (a) If the proposed temporary conservatee is out of the state  
7 when served and is not the petitioner.

8 (b) If the proposed temporary conservatee is unable to attend  
9 the hearing by reason of medical inability.

10 (c) If the court investigator has visited the proposed  
11 conservatee prior to the hearing and the court investigator has  
12 reported to the court that the proposed temporary conservatee has  
13 expressly communicated that all of the following apply:

14 (1) The proposed conservatee is not willing to attend the  
15 hearing.

16 (2) The proposed conservatee does not wish to contest the  
17 establishment of the temporary conservatorship.

18 (3) The proposed conservatee does not object to the proposed  
19 temporary conservator or prefer that another person act as  
20 temporary conservator.

21 (d) If the court determines that the proposed conservatee is  
22 unable or unwilling to attend the hearing, and holding the hearing  
23 in the absence of the proposed conservatee is necessary to protect  
24 the conservatee from substantial harm.

25 SEC. 17. Section ~~2250.2~~ 2250.6 is added to the Probate Code,  
26 to read:

27 ~~2250.2.~~

28 2250.6. (a) Regardless of whether the proposed temporary  
29 conservatee attends the hearing, the court investigator shall do all  
30 of the following prior to the hearing, unless it is not feasible to do  
31 so, in which case the court investigator shall comply with the  
32 requirements set forth in subdivision (b):

33 (1) Interview the proposed conservatee personally. The court  
34 investigator also shall do all of the following:

35 (A) Interview the petitioner and the proposed conservator, if  
36 different from the petitioner.

37 (B) To the greatest extent possible, interview the proposed  
38 conservatee's spouse or registered domestic partner, relatives  
39 within the first degree, neighbors and, if known, close friends.

1 (C) To the extent possible, interview the proposed  
2 conservatee's relatives within the second degree as set forth in  
3 subdivision (b) of Section 1821 before the hearing.

4 (2) Inform the proposed conservatee of the contents of the  
5 citation, of the nature, purpose, and effect of the proceeding, and  
6 of the right of the proposed conservatee to oppose the  
7 proceeding, to attend the hearing, to have the matter of the  
8 establishment of the conservatorship tried by jury, to be  
9 represented by legal counsel if the proposed conservatee so  
10 chooses, and to have legal counsel appointed by the court if  
11 unable to retain legal counsel.

12 (3) Determine whether it appears that the proposed  
13 conservatee is unable to attend the hearing and, if able to attend,  
14 whether the proposed conservatee is willing to attend the hearing.

15 (4) Determine whether the proposed conservatee wishes to  
16 contest the establishment of the conservatorship.

17 (5) Determine whether the proposed conservatee objects to the  
18 proposed conservator or prefers another person to act as  
19 conservator.

20 (6) Report to the court, in writing, concerning all of the  
21 foregoing.

22 (b) If not feasible before the hearing, the court investigator  
23 shall do all of the following within ~~48 hours~~ *two court days* after  
24 the hearing:

25 (1) Interview the conservatee personally. The court  
26 investigator also shall do all of the following:

27 (A) Interview the petitioner and the proposed conservator, if  
28 different from the petitioner.

29 (B) To the greatest extent possible, interview the proposed  
30 conservatee's spouse or registered domestic partner, relatives  
31 within the first degree, neighbors and, if known, close friends.

32 (C) To the extent possible, interview the proposed  
33 conservatee's relatives within the second degree as set forth in  
34 subdivision (b) of Section 1821 before the hearing.

35 (2) Inform the conservatee of the nature, purpose, and effect of  
36 the temporary conservatorship, as well as the right of the  
37 conservatee to oppose the proposed general conservatorship, to  
38 attend the hearing, to have the matter of the establishment of the  
39 conservatorship tried by jury, to be represented by legal counsel

1 if the proposed conservatee so chooses, and to have legal counsel  
2 appointed by the court if unable to retain legal counsel.

3 (c) If the investigator does not visit the conservatee until after  
4 the hearing at which a temporary conservator was appointed, and  
5 the conservatee objects to the appointment of the temporary  
6 conservator, or requests an attorney, the court investigator shall  
7 report this information promptly, and in no event more than three  
8 court days later, to the court. Upon receipt of that information,  
9 the court may proceed with appointment of an attorney as  
10 provided in Chapter 4 (commencing with Section 1470) of Part 1.

11 (d) If it appears to the court investigator that the temporary  
12 conservatorship is inappropriate, the court investigator shall  
13 immediately, and in no event more than two court days later,  
14 provide a written report to the court so the court can consider  
15 taking appropriate action on its own motion.

16 SEC. 17.5. *Section 2250.8 is added to the Probate Code, to*  
17 *read:*

18 2250.8. *Sections 2250, 2250.4, and 2250.6 shall not apply to*  
19 *proceedings under Chapter 3 (commencing with Section 5350) of*  
20 *Part 1 of Division 5 of the Welfare and Institutions Code.*

21 SEC. 18. Section 2253 of the Probate Code is amended to  
22 read:

23 2253. (a) If a temporary conservator of the person proposes  
24 to fix the residence of the conservatee at a place other than that  
25 where the conservatee resided prior to the commencement of the  
26 proceedings, that power shall be requested of the court in writing,  
27 unless the change of residence is required of the conservatee by a  
28 prior court order. The request shall be filed with the petition for  
29 temporary conservatorship or, if a temporary conservatorship has  
30 already been established, separately. The request shall specify in  
31 particular the place to which the temporary conservator proposes  
32 to move the conservatee, and the precise reasons why it is  
33 believed that the conservatee will suffer irreparable harm if the  
34 change of residence is not permitted, and why no means less  
35 restrictive of the conservatee's liberty will suffice to prevent that  
36 harm.

37 (b) Unless the court for good cause orders otherwise, the court  
38 investigator shall do all of the following:

39 (1) Interview the conservatee personally.



1 (2) Inform the conservatee of the nature, purpose, and effect of  
2 the request made under subdivision (a), and of the right of the  
3 conservatee to oppose the request, attend the hearing, be  
4 represented by legal counsel if the conservatee so chooses, and to  
5 have legal counsel appointed by the court if unable to obtain  
6 legal counsel.

7 (3) Determine whether the conservatee is unable to attend the  
8 hearing because of medical inability and, if able to attend,  
9 whether the conservatee is willing to attend the hearing.

10 (4) Determine whether the conservatee wishes to oppose the  
11 request.

12 (5) Determine whether the conservatee wishes to be  
13 represented by legal counsel at the hearing and, if so, whether the  
14 conservatee has retained legal counsel and, if not, the name of an  
15 attorney the proposed conservatee wishes to retain or whether the  
16 conservatee desires the court to appoint legal counsel.

17 (6) If the conservatee does not plan to retain legal counsel and  
18 has not requested the appointment of legal counsel by the court,  
19 determine whether the appointment of legal counsel would be  
20 helpful to the resolution of the matter or is necessary to protect  
21 the interests of the conservatee.

22 (7) Determine whether the proposed change of place of  
23 residence is required to prevent irreparable harm to the  
24 conservatee and whether no means less restrictive of the  
25 conservatee's liberty will suffice to prevent that harm.

26 (8) Report to the court in writing, at least two days before the  
27 hearing, concerning all of the foregoing, including the  
28 conservatee's express communications concerning representation  
29 by legal counsel and whether the conservatee is not willing to  
30 attend the hearing and does not wish to oppose the request.

31 (c) Within seven days of the date of filing of a temporary  
32 conservator's request to remove the conservatee from his or her  
33 previous place of residence, the court shall hold a hearing on the  
34 request.

35 (d) The conservatee shall be present at the hearing except in  
36 the following cases:

37 (1) Where the conservatee is unable to attend the hearing by  
38 reason of medical inability. Emotional or psychological  
39 instability is not good cause for the absence of the conservatee  
40 from the hearing unless, by reason of that instability, attendance

1 at the hearing is likely to cause serious and immediate  
2 physiological damage to the conservatee.

3 (2) Where the court investigator has reported to the court that  
4 the conservatee has expressly communicated that the conservatee  
5 is not willing to attend the hearing and does not wish to oppose  
6 the request, and the court makes an order that the conservatee  
7 need not attend the hearing.

8 (e) If the conservatee is unable to attend the hearing because  
9 of medical inability, that inability shall be established (1) by the  
10 affidavit or certificate of a licensed medical practitioner or (2) if  
11 the conservatee is an adherent of a religion whose tenets and  
12 practices call for reliance on prayer alone for healing and is under  
13 treatment by an accredited practitioner of that religion, by the  
14 affidavit of the practitioner. The affidavit or certificate is  
15 evidence only of the conservatee's inability to attend the hearing  
16 and shall not be considered in determining the issue of need for  
17 the establishment of a conservatorship.

18 (f) At the hearing, the conservatee has the right to be  
19 represented by counsel and the right to confront and  
20 cross-examine any witness presented by or on behalf of the  
21 temporary conservator and to present evidence on his or her own  
22 behalf.

23 (g) The court may approve the request to remove the  
24 conservatee from the previous place of residence only if the court  
25 finds (1) that change of residence is required to prevent  
26 irreparable harm to the conservatee and (2) that no means less  
27 restrictive of the conservatee's liberty will suffice to prevent that  
28 harm. If an order is made authorizing the temporary conservator  
29 to remove the conservatee from the previous place of residence,  
30 the order shall specify the specific place wherein the temporary  
31 conservator is authorized to place the conservatee. The temporary  
32 conservator may not be authorized to remove the conservatee  
33 from this state unless it is additionally shown that such removal  
34 is required to permit the performance of specified nonpsychiatric  
35 medical treatment, consented to by the conservatee, which is  
36 essential to the conservatee's physical survival. A temporary  
37 conservator who willfully removes a temporary conservatee from  
38 this state without authorization of the court is guilty of a felony.

39 (h) Subject to subdivision (e) of Section 2252, the court shall  
40 also order the temporary conservator to take all reasonable steps

1 to preserve the status quo concerning the conservatee's previous  
2 place of residence.

3 SEC. 19. Section 2320 of the Probate Code is amended to  
4 read:

5 2320. (a) Except as otherwise provided by statute, every  
6 person appointed as guardian or conservator shall, before letters  
7 are issued, give a bond approved by the court.

8 (b) The bond shall be for the benefit of the ward or  
9 conservatee and all persons interested in the guardianship or  
10 conservatorship estate and shall be conditioned upon the faithful  
11 execution of the duties of the office, according to law, by the  
12 guardian or conservator.

13 (c) Except as otherwise provided by statute, unless the court  
14 increases or decreases the amount upon a showing of good cause,  
15 the amount of a bond given by an admitted surety insurer shall be  
16 the sum of all of the following:

17 (1) The value of the personal property of the estate.

18 (2) The probable annual gross income of all of the property of  
19 the estate.

20 (3) The sum of the probable annual gross payments from the  
21 following:

22 (A) Part 3 (commencing with Section 11000) of, Part 4  
23 (commencing with Section 16000) of, or Part 5 (commencing  
24 with Section 17000) of, Division 9 of the Welfare and  
25 Institutions Code.

26 (B) Subchapter II (commencing with Section 401) of, or Part  
27 A of Subchapter XVI (commencing with Section 1382) of,  
28 Chapter 7 of Title 42 of the United States Code.

29 (C) Any other public entitlements of the ward or conservatee.

30 (4) On or after January 1, 2008, a reasonable amount for the  
31 cost of recovery to collect on the bond, including attorney's fees  
32 and costs. The Judicial Council shall, on or before January 1,  
33 2008, adopt a rule of court to implement this paragraph.

34 (d) If the bond is given by personal sureties, the amount of the  
35 bond shall be twice the amount required for a bond given by an  
36 admitted surety insurer.

37 (e) The Bond and Undertaking Law (Chapter 2 (commencing  
38 with Section 995.010) of Title 14 of Part 2 of the Code of Civil  
39 Procedure) applies to a bond given under this article, except to  
40 the extent inconsistent with this article.

1 SEC. 20. Section 2321 of the Probate Code is amended to  
2 read:

3 2321. (a) Notwithstanding any other provision of law, the  
4 court in a conservatorship proceeding may not waive the filing of  
5 a bond or reduce the amount of bond required, without a good  
6 cause determination by the court which shall include a  
7 determination by the court that the conservatee will not suffer  
8 harm as a result of the waiver or reduction of the bond. Good  
9 cause may not be established merely by the conservator having  
10 filed a bond in another or prior proceeding.

11 (b) In a conservatorship proceeding, where the conservatee,  
12 having sufficient capacity to do so, has waived the filing of a  
13 bond, the court in its discretion may permit the filing of a bond in  
14 an amount less than would otherwise be required under Section  
15 2320.

16 SEC. 21. Section 2401 of the Probate Code is amended to  
17 read:

18 2401. (a) The guardian or conservator, or limited conservator  
19 to the extent specifically and expressly provided in the  
20 appointing court's order, has the management and control of the  
21 estate and, in managing and controlling the estate, shall use  
22 ordinary care and diligence. What constitutes use of ordinary  
23 care and diligence is determined by all the circumstances of the  
24 particular estate.

25 (b) The guardian or conservator:

26 (1) Shall exercise a power to the extent that ordinary care and  
27 diligence requires that the power be exercised.

28 (2) Shall not exercise a power to the extent that ordinary care  
29 and diligence requires that the power not be exercised.

30 (c) Notwithstanding any other law, a guardian or conservator  
31 who is not a trust company, in exercising his or her powers, may  
32 not hire or refer any business to an entity in which he or she has  
33 a financial interest except upon authorization of the court. Prior  
34 to authorization from the court, the guardian or conservator shall  
35 disclose to the court in writing his or her financial interest in the  
36 entity. For the purposes of this subdivision, "financial interest"  
37 shall mean (1) an ownership interest in a sole proprietorship, a  
38 partnership, or a closely held corporation, or (2) an ownership  
39 interest of greater than 1 percent of the outstanding shares in a

1 publicly held corporation, or (3) being an officer or a director of  
2 a corporation.

3 (d) Notwithstanding any other law, a guardian or conservator  
4 who is a trust company, in exercising its powers may not, except  
5 upon authorization of the court, invest in securities of the trust  
6 company or an affiliate or subsidiary, or other securities from  
7 which the trust company or affiliate or subsidiary receives a  
8 financial benefit or in a mutual fund, other than a mutual fund  
9 authorized in paragraph (5) of subdivision (a) of Section 2574,  
10 registered under the Investment Company Act of 1940  
11 (Subchapter 1 (commencing with Sec. 80a-1) of Chapter 2D of  
12 Title 15 of the United States Code), to which the trust company  
13 or its affiliate provides services, including, but not limited to,  
14 services as an investment adviser, sponsor, distributor, custodian,  
15 agent, registrar, administrator, servicer, or manager, and for  
16 which the trust company or its affiliate receives compensation.

17 Prior to authorization from the court, the guardian or  
18 conservator shall disclose to the court in writing the trust  
19 company's financial interest.

20 SEC. 22. Section 2410 is added to the Probate Code, to read:

21 2410. On or before January 1, 2008, the Judicial Council, in  
22 consultation with the California Judges Association, the  
23 California Association of Superior Court Investigators, the  
24 California State Association of Public Administrators, Public  
25 Guardians, and Public Conservators, the State Bar of California,  
26 the National Guardianship Association, and the Association of  
27 Professional Geriatric Care Managers, shall adopt a rule of court  
28 that shall require uniform standards of conduct for actions that  
29 conservators and guardians may take under this chapter on behalf  
30 of conservatees and wards to ensure that the estate of  
31 conservatees or wards are maintained and conserved as  
32 appropriate and to prevent risk of loss or harm to the  
33 conservatees or wards. This rule shall include at a minimum  
34 standards for determining the fees that may be charged to  
35 conservatees or wards and standards for asset management.

36 SEC. 23. Section 2610 of the Probate Code is amended to  
37 read:

38 2610. (a) Within 90 days after appointment, or within any  
39 further time as the court for reasonable cause upon ex parte  
40 petition of the guardian or conservator may allow, the guardian

1 or conservator shall file with the clerk of the court and mail to the  
2 conservatee and to the attorneys of record for the ward or  
3 conservatee, along with notice of how to file an objection, an  
4 inventory and appraisal of the estate, made as of the date of the  
5 appointment of the guardian or conservator. A copy of this  
6 inventory and appraisal, along with notice of how to file an  
7 objection, also shall be mailed to the conservatee's spouse or  
8 registered domestic partner, the conservatee's relatives in the first  
9 degree, and, if there are no such relatives, to the next closest  
10 relative, unless the court determines that the mailing will result in  
11 harm to the conservatee.

12 (b) The guardian or conservator shall take and subscribe to an  
13 oath that the inventory contains a true statement of all of the  
14 estate of the ward or conservatee of which the guardian or  
15 conservator has possession or knowledge. The oath shall be  
16 endorsed upon or annexed to the inventory.

17 (c) The property described in the inventory shall be appraised  
18 in the manner provided for the inventory and appraisal of estates  
19 of decedents. The guardian or conservator may appraise the  
20 assets that a personal representative could appraise under Section  
21 8901.

22 (d) If a conservatorship is initiated pursuant to the  
23 Lanterman-Petris-Short Act (Part 1 (commencing with Section  
24 5000) of Division 5 of the Welfare and Institutions Code), and no  
25 sale of the estate will occur:

26 (1) The inventory and appraisal required by subdivision (a)  
27 shall be filed within 90 days after appointment of the  
28 conservator.

29 (2) The property described in the inventory may be appraised  
30 by the conservator and need not be appraised by a probate  
31 referee.

32 (e) By January 1, 2008, the Judicial Council shall develop a  
33 form to effectuate the notice required in subdivision (a).

34 SEC. 24. Section 2620 of the Probate Code is amended to  
35 read:

36 2620. (a) At the expiration of one year from the time of  
37 appointment and thereafter not less frequently than biennially,  
38 unless otherwise ordered by the court to be more frequent, the  
39 guardian or conservator shall present the accounting of the assets  
40 of the estate of the ward or conservatee to the court for settlement

1 and allowance in the manner provided in Chapter 4 (commencing  
2 with Section 1060) of Part 1 of Division 3. By January 1, 2008,  
3 the Judicial Council, in consultation with the California Judges  
4 Association, the California Association of Superior Court  
5 Investigators, the California State Association of Public  
6 Administrators, Public Guardians, and Public Conservators, the  
7 State Bar of California, and the California Society of Certified  
8 Public Accountants, shall develop a standard accounting form, a  
9 simplified accounting form, and rules for when the simplified  
10 accounting form may be used. After January 1, 2008, all  
11 accountings submitted pursuant to this section shall be submitted  
12 on the Judicial Council form.

13 (b) The final court accounting of the guardian or conservator  
14 following the death of the ward or conservatee shall include a  
15 court accounting for the period that ended on the date of death  
16 and a separate accounting for the period subsequent to the date of  
17 death.

18 (c) Along with each court accounting, the guardian or  
19 conservator shall file supporting documents, as provided in this  
20 section.

21 (1) For purposes of this subdivision, the term “account  
22 statement” shall include any original account statement from any  
23 institution, as defined in Section 2890, or any financial  
24 institution, as defined in Section 2892, in which money or other  
25 assets of the estate are held or deposited.

26 (2) The filing shall include all account statements showing the  
27 balance as of the close of the accounting period of the court  
28 accounting. If the court accounting is the first court accounting of  
29 the guardianship or conservatorship, the guardian or conservator  
30 shall provide to the court all account statements showing the  
31 account balance immediately preceding the date the conservator  
32 or guardian was appointed and all account statements showing  
33 the account through the closing date of the first court accounting.

34 (3) If the guardian or conservator is a private professional or  
35 licensed guardian or conservator, the guardian or conservator  
36 shall also file all original account statements, as described above,  
37 showing the balance as of all periods covered by the accounting.  
38 However, courts may instead provide by local rule that the court  
39 shall retain all documents lodged with it under this subdivision  
40 until the court’s determination of the guardian’s or conservator’s

1 account has become final, at which time the documents shall be  
2 returned to the depositing guardian or conservator or delivered to  
3 any successor appointed by the court.

4 (4) The filing shall include the original, closing escrow  
5 statement received showing the charges and credits for any sale  
6 of real property of the estate.

7 (5) If the ward or conservatee is in a residential care facility or  
8 a long-term care facility, the filing shall include the original bill  
9 statements for the facility.

10 (6) This subdivision shall not apply to the public guardian if  
11 the money belonging to the estate is pooled with money  
12 belonging to other estates pursuant to Section 2940 and Article 3  
13 (commencing with Section 7640) of Chapter 4 of Part 1 of  
14 Division 7. Nothing in this section shall affect any other duty or  
15 responsibility of the public guardian with regard to managing  
16 money belonging to the estate or filing accountings with the  
17 court.

18 (7) If any document to be filed or lodged with the court under  
19 this section contains the ward's or conservatee's social security  
20 number or any other personal information regarding the ward or  
21 conservatee that would not ordinarily be disclosed in a court  
22 accounting, an inventory and appraisal, or other nonconfidential  
23 pleadings filed in the action, the account statement or other  
24 document shall be attached to a separate affidavit describing the  
25 character of the document, captioned "CONFIDENTIAL  
26 FINANCIAL STATEMENT" in capital letters. Except as  
27 otherwise ordered by the court, the clerk of the court shall keep  
28 the document confidential except to the court and subject to  
29 disclosure only upon an order of the court. The guardian or  
30 conservator may redact the ward's or conservatee's social  
31 security number from any document lodged with the court under  
32 this section.

33 (d) Each accounting is subject to random or discretionary, full  
34 or partial review by the court. The review may include  
35 consideration of any information necessary to determine the  
36 accuracy of the accounting. If the accounting has any material  
37 error, the court shall make an express finding as to the severity of  
38 the error and what further action is appropriate in response to the  
39 error, if any. Among the actions available to the court is  
40 immediate suspension of the guardian or conservator without



1 further notice or proceedings and appointment of a temporary  
2 guardian or conservator or removal of the guardian or  
3 conservator pursuant to Section 2650 and appointment of a  
4 temporary guardian or conservator.

5 (e) The guardian or conservator shall make available for  
6 inspection and copying, upon reasonable notice, to any person  
7 designated by the court to verify the accuracy of the accounting,  
8 all books and records, including receipts for any expenditures, of  
9 the guardianship or conservatorship.

10 SEC. 25. Section 2620.2 of the Probate Code is amended to  
11 read:

12 2620.2. (a) Whenever the conservator or guardian has failed  
13 to file an accounting as required by Section 2620, the court shall  
14 require that written notice be given to the conservator or guardian  
15 and the attorney of record for the conservatorship or guardianship  
16 directing the conservator or guardian to file an accounting and to  
17 set the accounting for hearing before the court within 30 days of  
18 the date of the notice or, if the conservator or guardian is a public  
19 agency, within 45 days of the date of the notice. The court may,  
20 upon cause shown, grant an additional 30 days to file the  
21 accounting.

22 (b) Failure to file the accounting within the time specified  
23 under subdivision (a), or within 45 days of actual receipt of the  
24 notice, whichever is later, shall constitute a contempt of the  
25 authority of the court as described in Section 1209 of the Code of  
26 Civil Procedure.

27 (c) If the conservator or guardian does not file an accounting  
28 with all appropriate supporting documentation and set the  
29 accounting for hearing as required by Section 2620, the court  
30 shall do one or more of the following and shall report that action  
31 to the board established pursuant to Section 6510 of the Business  
32 and Professions Code:

33 (1) Remove the conservator or guardian as provided under  
34 Article 1 (commencing with Section 2650) of Chapter 9 of Part 4  
35 of Division 4.

36 (2) Issue and serve a citation requiring a guardian or  
37 conservator who does not file a required accounting to appear  
38 and show cause why the guardian or conservator should not be  
39 punished for contempt. If the guardian or conservator purposely

1 evades personal service of the citation, the guardian or  
2 conservator shall be immediately removed from office.

3 (3) Suspend the powers of the conservator or guardian and  
4 appoint a temporary conservator or guardian, who shall take  
5 possession of the assets of the conservatorship or guardianship,  
6 investigate the actions of the conservator or guardian, and  
7 petition for surcharge if this is in the best interests of the ward or  
8 conservatee. Compensation for the temporary conservator or  
9 guardian, and counsel for the temporary conservator or guardian,  
10 shall be treated as a surcharge against the conservator or  
11 guardian, and if unpaid shall be considered a breach of condition  
12 of the bond.

13 (4) (A) Appoint legal counsel to represent the ward or  
14 conservatee if the court has not suspended the powers of the  
15 conservator or guardian and appoint a temporary conservator or  
16 guardian pursuant to paragraph (3). Compensation for the  
17 counsel appointed for the ward or conservatee shall be treated as  
18 a surcharge against the conservator or guardian, and if unpaid  
19 shall be considered a breach of a condition on the bond, unless  
20 for good cause shown the court finds that counsel for the ward or  
21 conservatee shall be compensated according to Section 1470. The  
22 court shall order the legal counsel to do one or more of the  
23 following:

24 (i) Investigate the actions of the conservator or guardian, and  
25 petition for surcharge if this is in the best interests of the ward or  
26 conservatee.

27 (ii) Recommend to the court whether the conservator or  
28 guardian should be removed.

29 (iii) Recommend to the court whether money or other property  
30 in the estate should be deposited pursuant to Section 2453,  
31 2453.5, 2454, or 2455, to be subject to withdrawal only upon  
32 authorization of the court.

33 (B) After resolution of the matters for which legal counsel was  
34 appointed in subparagraph (A), the court shall terminate the  
35 appointment of legal counsel, unless the court determines that  
36 continued representation of the ward or conservatee and the  
37 estate is necessary and reasonable.

38 (5) If the conservator or guardian is exempt from the licensure  
39 requirements of Chapter 6 (commencing with Section 6500) of  
40 Division 3 of the Business and Professions Code, upon ex parte

1 application or any notice as the court may require, extend the  
2 time to file the accounting, not to exceed an additional 30 days  
3 after the expiration of the deadline described in subdivision (a),  
4 where the court finds there is good cause and that the estate is  
5 adequately bonded. After expiration of any extensions, if the  
6 accounting has not been filed, the court shall take action as  
7 described in paragraphs (1) to (3), inclusive.

8 (d) Subdivision (c) does not preclude the court from  
9 additionally taking any other appropriate action in response to a  
10 failure to file a proper accounting in a timely manner.

11 SEC. 26. Section 2623 of the Probate Code is amended to  
12 read:

13 2623. (a) Except as provided in subdivision (b) of this  
14 section, the guardian or conservator shall be allowed all of the  
15 following:

16 (1) The amount of the reasonable expenses incurred in the  
17 exercise of the powers and the performance of the duties of the  
18 guardian or conservator (including, but not limited to, the cost of  
19 any surety bond furnished, reasonable attorney's fees, and such  
20 compensation for services rendered by the guardian or  
21 conservator of the person as the court determines is just and  
22 reasonable).

23 (2) Such compensation for services rendered by the guardian  
24 or conservator as the court determines is just and reasonable.

25 (3) All reasonable disbursements made before appointment as  
26 guardian or conservator.

27 (4) In the case of termination other than by the death of the  
28 ward or conservatee, all reasonable disbursements made after the  
29 termination of the guardianship or conservatorship but prior to  
30 the discharge of the guardian or conservator by the court.

31 (5) In the case of termination by the death of the ward or  
32 conservatee, all reasonable expenses incurred prior to the  
33 discharge of the guardian or conservator by the court for the  
34 custody and conservation of the estate and its delivery to the  
35 personal representative of the estate of the deceased ward or  
36 conservatee or in making other disposition of the estate as  
37 provided for by law.

38 (b) The guardian or conservator shall not be compensated  
39 from the estate for any costs or fees that the guardian or  
40 conservator incurred in unsuccessfully opposing a petition, or

1 other request or action, made by or on behalf of the ward or  
2 conservatee, unless the court determines that the opposition was  
3 made in good faith, based on the best interests of the ward or  
4 conservatee.

5 SEC. 27. Section 2640 of the Probate Code is amended to  
6 read:

7 2640. (a) At any time after the filing of the inventory and  
8 appraisal, but not before the expiration of 90 days from the  
9 issuance of letters or any other period of time as the court for  
10 good cause orders, the guardian or conservator of the estate may  
11 petition the court for an order fixing and allowing compensation  
12 to any one or more of the following:

13 (1) The guardian or conservator of the estate for services  
14 rendered to that time.

15 (2) The guardian or conservator of the person for services  
16 rendered to that time.

17 (3) The attorney for services rendered to that time by the  
18 attorney to the guardian or conservator of the person or estate or  
19 both.

20 (b) Notice of the hearing shall be given for the period and in  
21 the manner provided for in Chapter 3 (commencing with Section  
22 1460) of Part 1.

23 (c) Upon the hearing, the court shall make an order allowing  
24 (1) any compensation requested in the petition the court  
25 determines is just and reasonable to the guardian or conservator  
26 of the estate for services rendered or to the guardian or  
27 conservator of the person for services rendered, or to both, and  
28 (2) any compensation requested in the petition the court  
29 determines is reasonable to the attorney for services rendered to  
30 the guardian or conservator of the person or estate or both. The  
31 compensation allowed to the guardian or conservator of the  
32 person, the guardian or conservator of the estate, and to the  
33 attorney may, in the discretion of the court, include compensation  
34 for services rendered before the date of the order appointing the  
35 guardian or conservator. The compensation allowed shall  
36 thereupon be charged to the estate. Legal services for which the  
37 attorney may be compensated include those services rendered by  
38 any paralegal performing legal services under the direction and  
39 supervision of an attorney. The petition or application for

1 compensation shall set forth the hours spent and services  
2 performed by the paralegal.

3 (d) Notwithstanding the provisions of subdivision (c), the  
4 guardian or conservator shall not be compensated from the estate  
5 for any costs or fees that the guardian or conservator incurred in  
6 unsuccessfully opposing a petition, or other request or action,  
7 made by or on behalf of the ward or conservatee, unless the court  
8 determines that the opposition was made in good faith, based on  
9 the best interests of the ward or conservatee.

10 SEC. 28. Section 2640.1 of the Probate Code is amended to  
11 read:

12 2640.1. (a) If a person has petitioned for the appointment of  
13 a particular conservator and another conservator was appointed  
14 while the petition was pending, but not before the expiration of  
15 90 days from the issuance of letters, the person who petitioned  
16 for the appointment of a conservator but was not appointed and  
17 that person's attorney may petition the court for an order fixing  
18 and allowing compensation and reimbursement of costs,  
19 provided that the court determines that the petition was filed in  
20 the best interests of the conservatee.

21 (b) Notice of the hearing shall be given for the period and in  
22 the manner provided in Chapter 3 (commencing with Section  
23 1460) of Part 1.

24 (c) Upon the hearing, the court shall make an order to allow  
25 both of the following:

26 (1) Any compensation or costs requested in the petition the  
27 court determines is just and reasonable to the person who  
28 petitioned for the appointment of a conservator but was not  
29 appointed, for his or her services rendered in connection with and  
30 to facilitate the appointment of a conservator, and costs incurred  
31 in connection therewith.

32 (2) Any compensation or costs requested in the petition the  
33 court determines is just and reasonable to the attorney for that  
34 person, for his or her services rendered in connection with and to  
35 facilitate the appointment of a conservator, and costs incurred in  
36 connection therewith.

37 Any compensation and costs allowed shall be charged to the  
38 estate of the conservatee. If a conservator of the estate is not  
39 appointed, but a conservator of the person is appointed, the  
40 compensation and costs allowed shall be ordered by the court to

1 be paid from property belonging to the conservatee, whether held  
2 outright, in trust, or otherwise.

3 (d) It is the intent of the Legislature for this section to have  
4 retroactive effect.

5 SEC. 29. Section 2641 of the Probate Code is amended to  
6 read:

7 2641. (a) At any time permitted by Section 2640 and upon  
8 the notice therein prescribed, the guardian or conservator of the  
9 person may petition the court for an order fixing and allowing  
10 compensation for services rendered to that time.

11 (b) Upon the hearing, the court shall make an order allowing  
12 any compensation the court determines is just and reasonable to  
13 the guardian or conservator of the person for services rendered.  
14 The compensation allowed to the guardian or conservator of the  
15 person may, in the discretion of the court, include compensation  
16 for services rendered before the date of the order appointing the  
17 guardian or conservator. The compensation allowed shall  
18 thereupon be charged against the estate.

19 (c) The guardian or conservator shall not be compensated from  
20 the estate for any costs or fees that the guardian or conservator  
21 incurred in unsuccessfully opposing a petition, or other request or  
22 action, made by or on behalf of the ward or conservatee, unless  
23 the court determines that the opposition was made in good faith,  
24 based on the best interests of the ward or conservatee.

25 SEC. 30. Section 2653 of the Probate Code is amended to  
26 read:

27 2653. (a) The guardian or conservator, the ward or  
28 conservatee, the spouse of the ward or the spouse or registered  
29 domestic partner of the conservatee, any relative or friend of the  
30 ward or conservatee, and any interested person may appear at the  
31 hearing and support or oppose the petition.

32 (b) If the court determines that cause for removal of the  
33 guardian or conservator exists, the court may remove the  
34 guardian or conservator, revoke the letters of guardianship or  
35 conservatorship, and enter judgment accordingly and, in the case  
36 of a guardianship or conservatorship of the estate, order the  
37 guardian or conservator to file an accounting and to surrender the  
38 estate to the person legally entitled thereto. If the guardian or  
39 conservator fails to file the accounting as ordered, the court may  
40 compel the accounting pursuant to Section 2620.2.

1 (c) If the court removes the guardian or conservator for cause,  
2 as described in subdivisions (a) to (g), inclusive, of Section 2650  
3 or Section 2655, both of the following shall apply:

4 (1) The court shall award the petitioner the costs of the  
5 petition and other expenses and costs of litigation, including  
6 attorney's fees, incurred under this article, unless the court  
7 determines that the guardian or conservator has acted in good  
8 faith, based on the best interests of the ward or conservatee.

9 (2) The guardian or conservator may not deduct from, or  
10 charge to, the estate his or her costs of litigation, and is  
11 personally liable for those costs and expenses.

12 SEC. 31. Section 2701 of the Probate Code is amended to  
13 read:

14 2701. (a) A request for special notice may be modified or  
15 withdrawn in the same manner as provided for the making of the  
16 initial request.

17 (b) A new request for special notice may be served and filed at  
18 any time as provided in the case of an initial request.

19 SEC. 32. Section 2920 of the Probate Code is amended to  
20 read:

21 2920. (a) If any person domiciled in the county requires a  
22 guardian or conservator and there is no one else who is qualified  
23 and willing to act and whose appointment as guardian or  
24 conservator would be in the best interests of the person, then  
25 either of the following shall apply:

26 (1) The public guardian shall apply for appointment as  
27 guardian or conservator of the person, the estate, or the person  
28 and estate, if there is an imminent threat to the person's health or  
29 safety or the person's estate.

30 (2) The public guardian may apply for appointment as  
31 guardian or conservator of the person, the estate, or the person  
32 and estate in all other cases.

33 (b) The public guardian shall apply for appointment as  
34 guardian or conservator of the person, the estate, or the person  
35 and estate, if the court so orders. The court may make an order  
36 under this subdivision on motion of an interested person or on the  
37 court's own motion in a pending proceeding or in a proceeding  
38 commenced for that purpose. The court shall order the public  
39 guardian to apply for appointment as guardian or conservator of  
40 the person, the estate, or the person and estate, on behalf of any

1 person domiciled in the county who appears to require a guardian  
2 or conservator, if it appears that there is no one else who is  
3 qualified and willing to act, and if that appointment as guardian  
4 or conservator appears to be in the best interests of the person.  
5 However, if prior to the filing of the petition for appointment it is  
6 discovered that there is someone else who is qualified and  
7 willing to act as guardian or conservator, the public guardian  
8 shall be relieved of the duty under the order. The court shall not  
9 make an order under this subdivision except after notice to the  
10 public guardian for the period and in the manner provided for in  
11 Chapter 3 (commencing with Section 1460) of Part 1,  
12 consideration of the alternatives, and a determination by the court  
13 that the appointment is necessary. The notice and hearing under  
14 this subdivision may be combined with the notice and hearing  
15 required for appointment of a guardian or conservator.

16 (c) The public guardian shall begin an investigation within two  
17 business days of receiving a referral for conservatorship or  
18 guardianship.

19 SEC. 33. Section 2923 is added to the Probate Code, to read:

20 2923. On or before January 1, 2008, the public guardian shall  
21 comply with the continuing education requirements that are  
22 established by the California State Association of Public  
23 Administrators, Public Guardians, and Public Conservators.

24 ~~SEC. 33. Section 15610.17 of the Welfare and Institutions~~  
25 ~~Code is amended to read:~~

26 ~~15610.17. "Care custodian" means an administrator or an~~  
27 ~~employee of any of the following public or private facilities or~~  
28 ~~agencies, or persons providing care or services for elders or~~  
29 ~~dependent adults, including members of the support staff and~~  
30 ~~maintenance staff:~~

31 ~~(a) Twenty-four hour health facilities, as defined in Sections~~  
32 ~~1250, 1250.2, and 1250.3 of the Health and Safety Code.~~

33 ~~(b) Clinics.~~

34 ~~(c) Home health agencies.~~

35 ~~(d) Agencies providing publicly funded in-home supportive~~  
36 ~~services, nutrition services, or other home and community-based~~  
37 ~~support services.~~

38 ~~(e) Adult day health care centers and adult day care.~~



1 ~~(f) Secondary schools that serve 18- to 22-year-old dependent~~  
2 ~~adults and postsecondary educational institutions that serve~~  
3 ~~dependent adults or elders.~~

4 ~~(g) Independent living centers.~~

5 ~~(h) Camps.~~

6 ~~(i) Alzheimer's Disease day care resource centers.~~

7 ~~(j) Community care facilities, as defined in Section 1502 of~~  
8 ~~the Health and Safety Code, and residential care facilities for the~~  
9 ~~elderly, as defined in Section 1569.2 of the Health and Safety~~  
10 ~~Code.~~

11 ~~(k) Respite care facilities.~~

12 ~~(l) Foster homes.~~

13 ~~(m) Vocational rehabilitation facilities and work activity~~  
14 ~~centers.~~

15 ~~(n) Designated area agencies on aging.~~

16 ~~(o) Regional centers for persons with developmental~~  
17 ~~disabilities.~~

18 ~~(p) State Department of Social Services and State Department~~  
19 ~~of Health Services licensing divisions.~~

20 ~~(q) County welfare departments.~~

21 ~~(r) Offices of patients' rights advocates and clients' rights~~  
22 ~~advocates, including attorneys.~~

23 ~~(s) The office of the long-term care ombudsman.~~

24 ~~(t) The Office of the Conservatorship Ombudsman in the~~  
25 ~~Department of Consumer Affairs.~~

26 ~~(u) Offices of public conservators, public guardians, and court~~  
27 ~~investigators.~~

28 ~~(v) Any protection or advocacy agency or entity that is~~  
29 ~~designated by the Governor to fulfill the requirements and~~  
30 ~~assurances of the following:~~

31 ~~(1) The federal Developmental Disabilities Assistance and Bill~~  
32 ~~of Rights Act of 2000, contained in Chapter 144 (commencing~~  
33 ~~with Section 15001) of Title 42 of the United States Code, for~~  
34 ~~protection and advocacy of the rights of persons with~~  
35 ~~developmental disabilities.~~

36 ~~(2) The Protection and Advocacy for the Mentally Ill~~  
37 ~~Individuals Act of 1986, as amended, contained in Chapter 114~~  
38 ~~(commencing with Section 10801) of Title 42 of the United~~  
39 ~~States Code, for the protection and advocacy of the rights of~~  
40 ~~persons with mental illness.~~

1 ~~(w) Humane societies and animal control agencies.~~

2 ~~(x) Fire departments.~~

3 ~~(y) Offices of environmental health and building code~~  
4 ~~enforcement.~~

5 ~~(z) Any other protective, public, sectarian, mental health, or~~  
6 ~~private assistance or advocacy agency or person providing health~~  
7 ~~services or social services to elders or dependent adults.~~

8 ~~SEC. 33. Section 15610.17 of the Welfare and Institutions~~  
9 ~~Code is amended to read:~~

10 ~~15610.17. "Care custodian" means an administrator or an~~  
11 ~~employee of any of the following public or private facilities or~~  
12 ~~agencies, or persons providing care or services for elders or~~  
13 ~~dependent adults, including members of the support staff and~~  
14 ~~maintenance staff:~~

15 ~~(a) Twenty-four hour health facilities, as defined in Sections~~  
16 ~~1250, 1250.2, and 1250.3 of the Health and Safety Code.~~

17 ~~(b) Clinics.~~

18 ~~(c) Home health agencies.~~

19 ~~(d) Agencies providing publicly funded in-home supportive~~  
20 ~~services, nutrition services, or other home and community-based~~  
21 ~~support services.~~

22 ~~(e) Adult day health care centers and adult day care.~~

23 ~~(f) Secondary schools that serve 18- to 22-year-old dependent~~  
24 ~~adults and postsecondary educational institutions that serve~~  
25 ~~dependent adults or elders.~~

26 ~~(g) Independent living centers.~~

27 ~~(h) Camps.~~

28 ~~(i) Alzheimer's Disease day care resource centers.~~

29 ~~(j) Community care facilities, as defined in Section 1502 of~~  
30 ~~the Health and Safety Code, and residential care facilities for the~~  
31 ~~elderly, as defined in Section 1569.2 of the Health and Safety~~  
32 ~~Code.~~

33 ~~(k) Respite care facilities.~~

34 ~~(l) Foster homes.~~

35 ~~(m) Vocational rehabilitation facilities and work activity~~  
36 ~~centers.~~

37 ~~(n) Designated area agencies on aging.~~

38 ~~(o) Regional centers for persons with developmental~~  
39 ~~disabilities.~~

1 ~~(p) State Department of Social Services and State Department~~  
2 ~~of Health Services licensing divisions.~~

3 ~~(q) County welfare departments.~~

4 ~~(r) Offices of patients' rights advocates and clients' rights~~  
5 ~~advocates, including attorneys.~~

6 ~~(s) The office of the long-term care ombudsman.~~

7 ~~(t) The Office of the Conservatorship Ombudsman in the~~  
8 ~~Department of Consumer Affairs.~~

9 ~~(u) Offices of public conservators, public guardians, and court~~  
10 ~~investigators.~~

11 ~~(v) Any protection or advocacy agency or entity that is~~  
12 ~~designated by the Governor to fulfill the requirements and~~  
13 ~~assurances of the following:~~

14 ~~(1) The federal Developmental Disabilities Assistance and Bill~~  
15 ~~of Rights Act of 2000, contained in Chapter 144 (commencing~~  
16 ~~with Section 15001) of Title 42 of the United States Code, for~~  
17 ~~protection and advocacy of the rights of persons with~~  
18 ~~developmental disabilities.~~

19 ~~(2) The Protection and Advocacy for the Mentally Ill~~  
20 ~~Individuals Act of 1986, as amended, contained in Chapter 114~~  
21 ~~(commencing with Section 10801) of Title 42 of the United~~  
22 ~~States Code, for the protection and advocacy of the rights of~~  
23 ~~persons with mental illness.~~

24 ~~(w) Humane societies and animal control agencies.~~

25 ~~(x) Fire departments.~~

26 ~~(y) Offices of environmental health and building code~~  
27 ~~enforcement.~~

28 ~~(z) Any other protective, public, sectarian, mental health, or~~  
29 ~~private assistance or advocacy agency or person providing health~~  
30 ~~services or social services to elders or dependent adults.~~

31 ~~SEC. 34. Section 15633.5 of the Welfare and Institutions~~  
32 ~~Code is amended to read:~~

33 ~~15633.5. (a) (1) Information relevant to the incident of elder~~  
34 ~~or dependent adult abuse may be given to an investigator from an~~  
35 ~~adult protective services agency, a local law enforcement agency,~~  
36 ~~the office of the district attorney, the office of the public~~  
37 ~~guardian, the probate court, the bureau, or an investigator of the~~  
38 ~~Department of Consumer Affairs, Division of Investigation who~~  
39 ~~is investigating a known or suspected case of elder or dependent~~  
40 ~~adult abuse.~~

~~(2) Summary information regarding the results of an investigation and any action the agency is taking with regard to the adult who is the subject of the report and who is a conservatee may be given to the Office of the Conservatorship Ombudsman in the Department of Consumer Affairs when the report of known or suspected abuse or neglect was made by that office.~~

~~(b) The identity of any person who reports under this chapter shall be confidential and disclosed only among the following agencies or persons representing an agency:~~

- ~~(1) An adult protective services agency.~~
- ~~(2) A long-term care ombudsperson program.~~
- ~~(3) A licensing agency.~~
- ~~(4) A local law enforcement agency.~~
- ~~(5) The office of the district attorney.~~
- ~~(6) The office of the public guardian.~~
- ~~(7) The probate court.~~
- ~~(8) The bureau.~~
- ~~(9) The Department of Consumer Affairs, Division of Investigation.~~

~~(10) Counsel representing an adult protective services agency.~~  
~~(e) The identity of a person who reports under this chapter may also be disclosed under the following circumstances:~~

- ~~(1) To the district attorney in a criminal prosecution.~~
- ~~(2) When a person reporting waives confidentiality.~~
- ~~(3) By court order.~~
- ~~(d) Notwithstanding subdivisions (a), (b), and (c), any person reporting pursuant to Section 15631 shall not be required to include his or her name in the report.~~

*SEC. 34. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.*

*SEC. 35. This act shall become operative only if Senate Bill 1116, Senate Bill 1550, and Senate Bill 1716 of the 2005–06 Regular Session are enacted and become effective on or before January 1, 2007.*